



February 20, 2004

ENGROSSED HOUSE BILL No. 1265

DIGEST OF HB 1265 (Updated February 18, 2004 12:52 pm - DI 104)

Citations Affected: IC 4-15; IC 16-18; IC 16-47; noncode.

Synopsis: Aggregate purchasing of prescription drugs. Requires the state personnel department to establish an aggregate prescription drug purchasing program to negotiate terms related to the purchase of prescription drugs. Requires participation by certain entities and allows participation by other certain entities. Authorizes the state to enter into multi-state prescription drug aggregate purchasing agreements. Requires the budget agency to report to the budget committee on participation in a regional or multi-state prescription drug aggregate purchasing program.

Effective: July 1, 2004.

Kersey, Thomas, LaPlante

(SENATE SPONSORS — GARD, SIMPSON, LAWSON C, SKINNER,
BRODEN)

January 15, 2004, read first time and referred to Committee on Ways and Means.
January 29, 2004, reported — Do Pass.
February 2, 2004, read second time, amended, ordered engrossed.
February 3, 2004, engrossed.
February 5, 2004, read third time, recommitted to Committee of One, amended; passed.
Yeas 97, nays 0.
February 6, 2004, re-engrossed.
February 10, engrossed.

SENATE ACTION

February 12, 2004, read first time and referred to Committee on Health and Provider Services.
February 19, 2004, amended, reported favorably — Do Pass.

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February 20, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1265

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-15-1.8-7, AS AMENDED BY P.L.224-2003,
2 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 7. (a) The department shall do the following:

- 4 (1) Develop personnel policies, methods, procedures, and
5 standards for all state agencies.
- 6 (2) Formulate, establish, and administer position classification
7 plans and salary and wage schedules, all subject to final approval
8 by the governor.
- 9 (3) Allocate positions in the state agencies to their proper
10 classifications.
- 11 (4) Approve employees for transfer, demotion, promotion,
12 suspension, layoff, and dismissal.
- 13 (5) Rate employees' service.
- 14 (6) Arrange with state agency heads for employee training.
- 15 (7) Investigate the need for positions in the state agencies.
- 16 (8) Promulgate and enforce personnel rules.
- 17 (9) Make and administer examinations for employment and for

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promotions.

(10) Maintain personnel records and a roster of the personnel of all state agencies.

(11) Render personnel services to the political subdivisions of ~~Indiana~~ the state.

(12) Investigate the operation of personnel policies in all state agencies.

(13) Assist state agencies in the improvement of their personnel procedures.

(14) Conduct a vigorous program of recruitment of qualified and able persons for the state agencies.

(15) Advise the governor and the general assembly of legislation needed to improve the personnel system of this state.

(16) Furnish any information and counsel requested by the governor or the general assembly.

(17) Establish and administer an employee training and career advancement program.

(18) Administer the state personnel law, IC 4-15-2.

(19) Institute an employee awards system designed to encourage all state employees to submit suggestions that will reduce the costs or improve the quality of state agencies.

(20) Survey the administrative organization and procedures, including personnel procedures, of all state agencies, and submit to the governor measures to secure greater efficiency and economy, to minimize the duplication of activities, and to effect better organization and procedures among state agencies.

(21) Establish, implement, and maintain the state aggregate prescription drug purchasing program established under IC 16-47-1, as approved by the budget agency.

(b) Salary and wage schedules established by the department under subsection (a) must provide for the establishment of overtime policies, which must include the following:

(1) Definition of overtime.

(2) Determination of employees or classes eligible for overtime pay.

(3) Procedures for authorization.

(4) Methods of computation.

(5) Procedures for payment.

(6) A provision that there shall be no mandatory adjustments to an employee's established work schedule in order to avoid the payment of overtime.

(c) The state personnel advisory board shall advise the director and

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cooperate in the improvement of all the personnel policies of the state.

(d) ~~By January 1, 1984,~~ The department shall establish programs of temporary appointment for employees of state agencies. A program established under this subsection must contain at least the following provisions:

(1) A temporary appointment may not exceed one hundred eighty (180) working days in any twelve (12) month period.

(2) The department may allow exceptions to the prohibition in subdivision (1) with the approval of the state budget agency.

(3) A temporary appointment in an agency covered by IC 4-15-2 is governed by the procedures of that chapter.

(4) A temporary appointment does not constitute creditable service for purposes of the public employees' retirement program under IC 5-10.2 and IC 5-10.3. However, an employee who served in an intermittent form of temporary employment after June 30, 1986, and before July 1, 2003, shall receive creditable service for the period of temporary employment.

SECTION 2. IC 16-18-2-92.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 92.6. "Department", for purposes of IC 16-47-1, has the meaning set forth in IC 16-47-1-1.**

SECTION 3. IC 16-18-2-159.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 159.1. "Health benefit plan", for purposes of IC 16-47-1, has the meaning set forth in IC 16-47-1-2.**

SECTION 4. IC 16-18-2-294.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 294.5. "Program", for purposes of IC 16-47-1, has the meaning set forth in IC 16-47-1-3.**

SECTION 5. IC 16-47 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 47. AGGREGATE PURCHASING OF PRESCRIPTION DRUGS

Chapter 1. State Aggregate Prescription Drug Purchasing Program

Sec. 1. As used in this chapter, "department" refers to the state personnel department.

Sec. 2. As used in this chapter, "health benefit plan" refers to the following:

(1) An accident and sickness insurance policy purchased or maintained under IC 5-10-8-7(a)(3).

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(2) A self-insurance program established under IC 5-10-8-7(b) to provide group health coverage.

(3) A contract with a prepaid health care delivery plan that is entered into or renewed under IC 5-10-8-7(c).

(4) A plan through which a state educational institution (as defined in IC 20-12-0.5-1) arranges for coverage of the cost of health care services (as defined in IC 27-13-1-18) provided to employees of the state educational institution.

Sec. 3. As used in this chapter, "program" refers to the aggregate prescription drug purchasing program established under this chapter.

Sec. 4. (a) The department, with the approval of the budget agency, shall establish, implement, and maintain an aggregate prescription drug purchasing program through which terms are negotiated related to the purchase of prescription drugs by:

(1) an entity described in section 5(a) or 5(b) of this chapter; or

(2) an individual who is covered under a health benefit plan that includes a prescription drug benefit.

(b) The budget agency may contract with a pharmacy benefit manager or other person to conduct the negotiations of the program established under subsection (a).

(c) The terms and conditions of the program are subject to the approval of the budget agency.

Sec. 5. (a) The following shall participate in the program:

(1) The department, for a health benefit plan:

(A) described in section 2(1), 2(2), or 2(3) of this chapter; and

(B) that provides coverage for prescription drugs.

(2) A state educational institution, for a health benefit plan:

(A) described in section 2(4) of this chapter; and

(B) that provides coverage for prescription drugs;

unless the budget agency determines that the state educational institution's participation in the program would not result in an overall financial benefit to the state educational institution.

(b) The following may participate in the program:

(1) A state agency other than the department that:

(A) purchases prescription drugs; or

(B) arranges for the payment of the cost of prescription drugs.

(2) A local unit (as defined in IC 5-10-8-1).

(3) The Indiana comprehensive health insurance association

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established under IC 27-8-10.

(c) The state Medicaid program may not participate in the program under this chapter.

Sec. 6. A request for proposal and the award of a contract under this chapter is subject to the approval of the budget agency.

Sec. 7. The program may not include the purchase of prescription drugs imported into the United States in violation of federal law.

Sec. 8. (a) Participation in the program by a pharmaceutical manufacturer is voluntary.

(b) The state may not:

(1) require prior authorization for a prescription drug in the state Medicaid program under IC 12-15; or

(2) otherwise penalize a pharmaceutical manufacturer; because the pharmaceutical manufacturer is not participating in the program.

Sec. 9. Any information, including prescription drug prices and discounts, provided to the state or the state's contractor under this chapter is confidential and is exempt from disclosure under IC 5-14-3.

Sec. 10. A drug store may negotiate prescription drug prices and discounts with a pharmaceutical manufacturer to participate in the program.

Chapter 2. Multi-State Prescription Drug Aggregate Purchasing Program

Sec. 1. The state, with the approval of the governor, may enter into agreements with other states to jointly purchase prescription drugs in aggregate or provide for reimbursement of the cost of prescription drugs purchased in aggregate to reduce the prescription drug costs for the state and for Indiana residents covered under this chapter.

Sec. 2. The state Medicaid program may not participate in a program entered into under this chapter.

Sec. 3. The program described in this chapter may not include the purchase of prescription drugs imported into the United States in violation of federal law.

Sec. 4. (a) Participation in the program described in this chapter by a pharmaceutical manufacturer is voluntary.

(b) The state may not participate in a program described in this chapter that:

(1) requires prior authorization of a prescription drug in the state Medicaid program under IC 12-15; or

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(2) otherwise penalizes a pharmaceutical manufacturer;
because a pharmaceutical manufacturer does not participate in the
program.

Sec. 5. Any information, including prescription drug prices and
discounts, provided to the state or to the state's contractor under
this chapter is confidential and is exempt from disclosure under
IC 5-14-3.

SECTION 6. [EFFECTIVE JULY 1, 2004] (a) IC 16-47-1-5(a)(1),
as added by this act, applies to a health benefit plan described in
IC 16-47-1-2(1), IC 16-47-1-2(2), and IC 16-47-1-2(3), all as added
by this act, established, entered into, delivered, amended, or
renewed after December 31, 2004.

(b) IC 16-47-1-5(a)(2), as added by this act, applies to a health
benefit plan described in IC 16-47-1-2(4), as added by this act, on
the date that the health benefit plan is established, entered into,
delivered, amended, or renewed after December 31, 2004.

SECTION 7. [EFFECTIVE JULY 1, 2004] (a) Not later than
November 1, 2004, the budget agency shall conduct a study and
submit a written report to the budget committee that:

(1) sets forth the status of the participation of other
midwestern states; and

(2) researches the feasibility, costs, and legal parameters of
Indiana's participation;
in a regional or multi-state prescription drug aggregate purchasing
program.

(b) This SECTION expires December 31, 2005.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1265, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

CRAWFORD, Chair

Committee Vote: yeas 26, nays 1.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1265 be amended to read as follows:

Page 4, delete line 41, begin a new paragraph and insert:

"(c) The state Medicaid program may not participate in the program under this chapter."

Page 5, between lines 1 and 2, begin a new paragraph and insert:

"Sec. 7. The program may not include the purchase of prescription drugs obtained from a country other than the United States.

Sec. 8. (a) Participation in the program by a pharmaceutical manufacturer is voluntary.

(b) The state may not:

(1) require prior authorization for a prescription drug in the state Medicaid program under IC 12-15; or

(2) otherwise penalize a pharmaceutical manufacturer;

because the pharmaceutical manufacturer is not participating in the program.

Sec. 9. Any information, including prescription drug prices and discounts, provided to the state under this chapter is confidential and is exempt from disclosure under IC 5-14-3.

Sec. 10. A drug store may negotiate prescription drug prices and discounts with a pharmaceutical manufacturer to participate in the program. "

Page 5, line 2, delete "7." and insert "11."

Page 5, line 10, delete "residents." and insert **"residents covered under this chapter.**

Sec. 2. The state Medicaid program may not participate in a program entered into under this chapter.

Sec. 3. (a) The program described in this chapter may not include the purchase of prescription drugs obtained from a country other than the United States.

(b) The state may not participate in a program described in this chapter that:

(1) requires prior authorization of a prescription drug in the state Medicaid program under IC 12-15; or

(2) otherwise penalizes a pharmaceutical manufacturer;

because a pharmaceutical manufacturer does not participate in the program.

Sec. 4. Any information, including prescription drug prices and discounts, provided under this chapter is confidential and is exempt from disclosure under IC 5-14-3."

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Page 5, line 27, delete "feasibility" and insert "**feasibility, costs, and legal parameters**".

(Reference is to HB 1265 as printed January 30, 2004.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1265 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

Page 2, line 27, delete "bulk" and insert **"aggregate"**.

Page 2, line 29, delete "IC 16-47-1." and insert **"IC 16-47-1, as approved by the budget agency."**

Page 3, line 33, delete "BULK" and insert **"AGGREGATE"**.

Page 3, line 35, delete "Bulk" and insert **"Aggregate"**.

Page 4, line 8, delete "bulk" and insert **"aggregate"**.

Page 4, line 11, delete "department" and insert **"department, with the approval of the budget agency,"**.

Page 4, line 12, delete "a bulk" and insert **"an aggregate"**.

Page 4, between lines 21 and 22, begin a new paragraph and insert:

"(c) The terms and conditions of the program are subject to the approval of the budget agency."

Page 5, line 4, delete "obtained from a country other than" and insert **"imported into"**.

Page 5, line 5, delete "States." and insert **"States in violation of federal law."**

Page 5, line 22, delete "Bulk" and insert **"Aggregate"**.

Page 5, line 24, delete "state" and insert **"state, with the approval of the governor,"**.

Page 5, line 25, delete "bulk" and insert **"aggregate"**.

Page 5, line 26, delete "bulk" and insert **"aggregate"**.

Page 5, line 31, delete "(a)".

Page 5, line 32, delete "obtained from a country" and insert **"imported into the United States in violation of federal law."**

Page 5, delete line 33, begin a new paragraph and insert:

"Sec. 4. (a) Participation in the program described in this chapter by a pharmaceutical manufacturer is voluntary."

Page 5, line 41, delete "4." and insert **"5."**

Page 6, line 20, delete "bulk" and insert **"aggregate"**.

(Reference is to HB 1265 as reprinted February 3, 2004.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred House Bill 1265, begs leave to report that said bill has been amended as directed.

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SENATE MOTION

Madam President: I move that Senator Lawson C be added as cosponsor of Engrossed House Bill 1265.

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SENATE MOTION

Madam President: I move that Senator Skinner be added as cosponsor of Engrossed House Bill 1265.

GARD

SENATE MOTION

Madam President: I move that Senator Broden be added as cosponsor of Engrossed House Bill 1265.

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1265, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, line 20, delete "department" and insert "**budget agency**".

Page 4, line 35, delete "benefit." and insert "**benefit to the state educational institution.**".

Page 5, line 18, after "state" insert "**or the state's contractor**".

Page 5, delete lines 23 through 24.

Page 6, line 6, after "provided" insert "**to the state or to the state's contractor**".

Page 6, line 11, delete "on the earlier of:" and insert "**established, entered into, delivered, amended, or renewed after December 31, 2004.**".

Page 6, delete lines 12 through 14.

Page 6, line 18, delete "June 30, 2004." and insert "**December 31, 2004.**".

and when so amended that said bill do pass.

(Reference is to HB 1265 as reprinted - author correction February 6, 2004.)

MILLER, Chairperson

Committee Vote: Yeas 8, Nays 0.

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